



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,800	11/24/2003	Donna K. Hodges	BS030349	5440
38516	7590	07/23/2008	EXAMINER	
SCOTT P. ZIMMERMAN, PLLC PO BOX 3822 CARY, NC 27519				SIKRI, ANISH
ART UNIT		PAPER NUMBER		
2143				
MAIL DATE		DELIVERY MODE		
07/23/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/720,800	HODGES ET AL.	
	Examiner	Art Unit	
	ANISH SIKRI	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 April 2008.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4-8,10-13,15 and 16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,2,4-8,10-13,15 and 16 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 24 November 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/9/07</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims **1, 2, 10, 11, 12, 15, and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al (US Pub 2003/0093790), in view of Ando (US Pub 2003/0126610).

Consider Claim 1, Logan et al discloses the preferred scenario of segmentation, dispersion, and assemblage of electronic data to fulfill the request (Logan et al, [0065], [0096]-[0101], Logan et al disclosed on how data is segmented, transmitted, and assembled); and recursively segmenting the data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented (Logan et al, [0084], [0086]); when a processing service is required, then grouping together individual packets of data as a new segment (Logan et al, [0096]), each of the individual packets in the new segment requiring the processing service (Logan et al, [0096]-[0101]); dispersing the new segment via a network to receive the processing service (Logan et al, [0096], [0103]); receiving a result of the processing service (Logan et al, [0096]-[0101]); assembling formatted data comprising the result of the processing service and at least one of the recursively segmented segments (Logan et al, [0096]-

[0101]); and communicating the formatted data to fulfill the request (Logan et al, [0067]-[0070]).

But Logan does not explicitly disclose the method of sending a reservation to reserve a routing path, the reservation instructing a device to only accept packets of data destined for that routing path, the reservation instructing a device to only accept packets of data destined for that routing path, the reservation specifying a window of time in which the packets of data are received and processed, and providing communications services, comprising receiving a request for data, assessing in real-time an availability of network routing to fulfill the request; assessing in real-time an availability of network bandwidth to fulfill the request; the reservation specifying a window of time in which the packets of data are received and processed; receiving a data stream to fulfill the request.

Nonetheless, Ando disclosed a method of providing communications services, sending a reservation to reserve a routing path (Ando, [0069], Ando disclosed that the routers use protocols such as RSVP, which are used for reserve routing paths between devices/nodes/routers etc), the reservation instructing a device to only accept packets of data destined for that routing path (Ando, [0090], Ando disclosed when a path is reserved, the data content is passed only on that reserve path which is reserved by using RSVP), the reservation instructing a device to only accept packets of data destined for that routing path (Ando, [0116]), the reservation specifying a window of time in which the packets of data are received and processed comprising receiving a request for data (Ando, [0116]) , assessing in real-time an availability of network routing to fulfill

the request (Ando, [0093]-[0094], Ando disclosed on it measures the bandwidth, as it discloses network availability); assessing in real-time an availability of network bandwidth to fulfill the request (Ando, [0093]-[0094]); receiving a data stream to fulfill the request (Ando, [0093]-[0094]).

However, Ando disclosed the use of reserving frequency band between routers and clients to distribute VOD data. It is common for the ordinary person skilled in the art to see that reserve paths between clients and servers can also be IP paths, as Ando does disclose the use of IP related streaming distribution (Ando, [0116]).

Both Ando and Logan et al provide features related to communication services. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate reliable real-time communications between the provider and the subscriber, taught by Ando, in the system of Logan et al, for providing communication services which involve segmentation, dispersion, and assemblage of data.

Consider Claim 2, Logan et al in view of Ando disclosed the method according to claim 1, wherein ascertaining the preferred scenario comprises assessing a highest quality scenario and a lowest cost scenario (Logan et al, [0065], [0096]-[0101]), the highest quality scenario describing a combination of segmentation, dispersion, and assemblage of segments that achieves a highest quality of presentation (Logan et al,

[0065], [0096]-[0101]), and the lowest cost scenario describing another combination of segmentation, dispersion, and assemblage of segments that achieves a lowest cost, despite degraded quality (Logan et al, [0065], [0096]-[0101]).

Consider Claim 10, Logan et al in view of Ando, disclosed the method according to claim 1, further comprising ascertaining a highest quality scenario that describes a combination of segmentation dispersion, and assemblage of segments that achieves a highest quality of presentation (Logan et al, [0065], [0096]-[0101]).

Consider Claim 11, Ando in view of Logan et al discloses the method according to claim 1, further comprising ascertaining a lowest cost scenario that describes a combination of segmentation, dispersion, and assemblage of segment that achieves a lowest cost (Logan et al, [0065], [0096]-[0101]).

Consider Claim 12, Logan et al in view of Ando, discloses the method according to claim 1, further comprising ascertaining a most profitable scenario that describes a combination of segmentation, dispersion, and assemblage of segments that achieves a highest profit (Logan et al, [0065], [0096]-[0101]).

Consider Claim 15, Logan et al discloses the preferred scenario of segmentation, dispersion, and assemblage of electronic data to fulfill the request (Logan

et al, [0065], [0096]-[0101], Logan et al disclosed on how data is segmented, transmitted, and assembled); and recursively segmenting the data stream into segments, such that a characteristic of a preceding segment determines how a current segment is segmented (Logan et al, [0084], [0086]); when a processing service is required, then grouping together individual packets of data as a new segment (Logan et al, [0096]), each of the individual packets in the new segment requiring the processing service (Logan et al, [0096]-[0101]); dispersing the new segment via a network to receive the processing service (Logan et al, [0096], [0103]); receiving a result of the processing service (Logan et al, [0096]-[0101]); assembling formatted data comprising the result of the processing service and at least one of the recursively segmented segments (Logan et al, [0096]-[0101]); and communicating the formatted data to fulfill the request (Logan et al, [0067]-[0070]).

But Logan does not explicitly disclose the method of sending a reservation to reserve a routing path, the reservation instructing a device to only accept packets of data destined for that routing path, the reservation instructing a device to only accept packets of data destined for that routing path, the reservation specifying a window of time in which the packets of data are received and processed, and providing communications services, comprising receiving a request for data, assessing in real-time an availability of network routing to fulfill the request; assessing in real-time an availability of network bandwidth to fulfill the request; the reservation specifying a window of time in which the packets of data are received and processed; receiving a data stream to fulfill the request.

Nonetheless, Ando disclosed a method of providing communications services, sending a reservation to reserve a routing path (Ando, [0069], Ando disclosed that the routers use protocols such as RSVP, which are used for reserve routing paths between devices/nodes/routers etc), the reservation instructing a device to only accept packets of data destined for that routing path (Ando, [0090], Ando disclosed when a path is reserved, the data content is passed only on that reserve path which is reserved by using RSVP), the reservation instructing a device to only accept packets of data destined for that routing path (Ando, [0116]), the reservation specifying a window of time in which the packets of data are received and processed comprising receiving a request for data (Ando, [0116]) , assessing in real-time an availability of network routing to fulfill the request (Ando, [0093]-[0094], Ando disclosed on it measures the bandwidth, as it discloses network availability); assessing in real-time an availability of network bandwidth to fulfill the request (Ando, [0093]-[0094]); receiving a data stream to fulfill the request (Ando, [0093]-[0094]).

However, Ando disclosed the use of reserving frequency band between routers and clients to distribute VOD data. It is common for the ordinary person skilled in the art to see that reserve paths between clients and servers can also be IP paths, as Ando does disclose the use of IP related streaming distribution (Ando, [0116]).

Both Ando and Logan et al provide features related to communication services. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate reliable real-time communications between the provider and the subscriber, taught by Ando, in the system of Logan et al, for providing communication services which involve segmentation, dispersion, and assemblage of data.

But Logan does not explicitly state determining a subcontracted processing service; and interrogating a different service provider to fulfill the subcontracted processing service; and dispersing the segment to a different service provider along with receiving the result of a subcontracted processing service.

Nonetheless, Ando disclosed the state determining a subcontracted processing service (Ando, [0042], [0045], Ando disclosed that the IP streaming system does provide multimedia distribution processing); and interrogating a different service provider to fulfill the subcontracted processing service (Ando, [0046], Ando disclosed on how the content is obtained from the distribution server after receiving request from the navigation server); and dispersing the segment to a different service provider along with receiving the result of a subcontracted processing service (Ando, [0045]-[0046], Ando disclosed on how the different service providers provide requested content processing service in the network).

Both Ando and Logan et al provide features related to communication services. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore, it would have been obvious to a person skilled in the art at the time of the invention was made to incorporate the use of subcontracted/distributed processing taught by Ando, in the system of Logan et al for the purpose of reducing system/network load.

Claims 16, has similar limitations as to claim 15, therefore, it is rejected under the same rational as to claim 15.

Claims **4, 5, 6, 7, 8, and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando (US Pub 2003/0126610), in view of Logan et al (US Pub 2003/0093790), and in further view of McKinnin et al (US Pat 6917628).

Consider Claim 4, Logan et al in view of Ando, disclosed the method according to claim 1, comprising issuing an assertion to a different service provider (Ando, [0045]-[0046], Ando disclosed on how the different service providers provide content processing in the network)

But, Logan et al, in view of Ando does not explicitly state the use of Service Level Agreement for performing processing services.

Nonetheless, McKinnin et al disclosed the use of Service Level Agreement for performing processing services (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Both Logan-Ando-McKinin provide features related to communication services. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are from the same environment.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to incorporate the use of Service Level Agreement, taught by McKinnin et al, in the system of Logan et al, in view of Ando for the purpose of monitoring/measuring the level of service provided to users/third-party.

Consider Claim 5, Logan et al in view of Ando, and in further view of McKinnin et al, discloses the method of claim 4, wherein the assertion is certified to reduce the incidence of fraudulent assertions (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Consider Claim 6, Logan et al in view of Ando, and in further view of McKinnin et al, discloses the method of claim 4, wherein receiving an assertion that confirms the Service Level Agreement was satisfied (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Consider Claim 7, Logan et al in view of Ando, and in further view of McKinnin et al, discloses the method according to claim 6, further comprising receiving a volume of assertions from subscribers as indications of trust that each subscriber's Service Level Agreement will be satisfied (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Consider Claim 8, Logan et al in view of Ando, and in further view of McKinnin et al, discloses the method according to claim 6, wherein when the service level agreement is satisfied, and the subscriber fails to provide the assertion, then further comprising denying communications services to the subscriber (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Consider Claim 13, Logan et al in view of Ando, and in further view of McKinnin et al disclose the method according to claim 4, further comprising processing a segment according to the Service Level Agreement (McKinnin et al, Col 13 Lines 46-67, Col 14 Lines 9-58).

Response to Arguments

Applicant's arguments filed 4/25/08 have been fully considered but they are not persuasive.

Applicant argues for Claim 1, 15, and 16 that combination of Logan-Ando does not teach "the method of sending a reservation to reserve a routing path, the reservation instructing a device to only accept packets of data destined for that routing path, the reservation instructing a device to only accept packets of data destined for that routing path, the reservation specifying a window of time in which the packets of data are received and processed".

The combination of Logan-Ando does indeed teach "the method of sending a reservation to reserve a routing path, the reservation instructing a device to only accept packets of data destined for that routing path, the reservation instructing a device to only accept packets of data destined for that routing path, the reservation specifying a window of time in which the packets of data are received and processed". Evidence can be seen in Ando, [0069] where Ando disclosed that the routers use protocols such as RSVP, which are used for reserve routing paths between devices/nodes/routers

etc, and wherein the path is reserved, as data content is passed only on that reserve path which is reserved by using RSVP, And in Ando [0116] disclosed the reservation instructing a device to only accept packets of data destined for that routing path wherein the reservation specifying a window of time in which the packets of data are received and processed comprising receiving a request for data.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH SIKRI whose telephone number is 5712701783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anish Sikri/
Examiner, Art Unit 2143

July 18, 2008

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2143